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LAND IN ENGLAND,

LAND IN IRELAND,

AND

LAND IN OTHER LANDS.

BY

CHANDOS WREN HOSKYNs, M.P.

"Latifundia perdidere Italiam, immo et Provincias."

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IN the course of an Address to the Electors of Hereford in March last, when they did me the honor of choosing me as one of their Representatives,—in speaking upon the Irish Question, I referred to the Land topic as one too complicate for satisfactory treatment on that occasion, and intimated my purpose of entering into it in fuller detail at a future opportunity. The following pages (which have, for the most part, already appeared in public print) were written in order to redeem that promise, and I address them, in their collected form, primarily to those to whom the promise was given.



LAND IN ENGLAND, LAND IN IRELAND,
AND LAND IN OTHER LANDS.

It sometimes happens in the experience of States, as it does to individuals, to be called upon to decide for others upon subjects that have never received due attention—have perhaps been postponed, or neglected, by themselves. If anything can awaken more powerfully than another the perception of an omitted duty, it is the call for immediate and responsible action—the demand for almost judicial administration—on topics that have thus remained long unconsidered, through indifference, or through prejudice.

Such is the position of this country, on being required to legislate for the Land in Ireland. The Agrarian question—at no time and in no country an easy one—has there become complicated to a degree never instanced before in the known history of the world: and those who predicted, with a kind of pleasure, the difficulties of the so-called ‘Church’ question, are now loudly proclaiming that the surviving one of the Land will prove the more difficult of the two.

This may be so. But difficult or not, it must be

met. For, what alternative is there? If there be evil to be remedied, or error to be amended, it *must* be *done*. England cannot afford, year after year, to—

“ Split itself,
And go to buffets with the other half ”

in the person of that adjacent sister island whose relation with it must be either a vital element of national strength, or an intrinsic weakness. It is not really a question of Party: be it Whig or Tory, Conservative or Liberal, it is a matter that *must* be dealt with. It cannot be done in a passion. It can only be dealt with by the most judicial treatment. In the present day, national justice *cannot* be denied or deferred: and if it could, the Government of this country is not one that would deny, or delay the remedy of a proved wrong. We should not permit either in our own case; we *must* not in the case of our fellow subjects.

But there is one great difference between the Church and the Land Questions: and it is this; that whereas in the former case we are satisfied with the institution which we ourselves enjoy, and erred perhaps only in trying to force the cap that fits our head, upon another skull of widely different shape and size:—in the latter case, we have a system at home which is condemned by—I might almost go the length of saying—everyone who has taken the trouble to understand it. Indeed, if I were asked what one thing is left for an Englishman to complain of, what one grievance has not

been redressed, nor bids immediate promise to be so, I should at once answer in one brief expression, his Land Laws.

Does it not sound strangely, that in the country of Magna Charta, the Bill of Rights, and the Reform Bill—in a country so freely governed, so advanced in every political and social right—a country quoted as an exemplar of personal freedom by other civilised nations, there should exist unreformed and unredressed anything at once so fundamental, and so patent, as a wrong in the matter of Land? I should easily imagine that if it were asserted to one who had studied the English Laws and Constitution as a stranger, he would be unwilling at first to credit it. Yet it is true: and the cause of it is not far to seek: for strange to say the very kernel of our constitutional freedom and good government contains the germ of the mischief that clings to our land laws. *Law Books outlive Revolutions*, those great changes in the body politic which like a thunderstorm, or the process of fermentation, clear the elements they disturbed, yet leave behind them a deposit which survives the salutary change; and so it has been with that one exceptional residuum known by the title of 'Real Property Law.'

To understand it is the labour of a life: but to spend a life in learning it is to work in a track, a groove which human nature mental cannot after a certain time of life get out of. Who that reads a page of any great lawyer's writing, from LYTTEL-

TON down to SUGDEN, can fail to see that a lawyer's mind works, like the Shaft-horse, in a line that while displaying all its power, it cannot govern, or with all its power, *get out of*. And thus it has come to pass that while legislation has touched with the hand of reform almost everything else that needed change, this Law has itself, like the pivot-point, escaped the general movement proceeding around it, and in its most important branch, remained unchallenged by public notice and intelligence. I refer to that great branch of law which relates to land. But if it should be successfully shown that this is so; that a serious reform is needed in our own land laws as existing in England, let us pause for one moment at the threshold to ask, How do we stand, in this matter, towards Ireland? "Physician cure thyself!"

This it is that makes the matter so pressing and important now. We see a variety of plans and remedies put forward for dealing with the land question in Ireland: the doctors are very numerous, and each prescribes his own nostrum: 'Tenant right' is the favourite word perhaps, but in truth the pharmacopœia embraces almost every scheme. But what hope is there, what chance of a cure for the Irish land grievance out of our Dispensary? What chance of a healthy circulation in the members, if all be not right at the heart and centre?

Do not imagine that I am going into a dry and learned dissertation. I shall talk the matter out

on paper, just as I should endeavour to do in speaking, so as if possible to make any reader with ordinary attention understand it. And with this view I must, if you please, begin at the end, and work backwards up to the commencement, just as idle novel-readers peep forward to the end of the third volume to see the hero and heroine comfortably settled, and then begin the *first*, to ascertain how it all came about. This is what learned people call the 'analytical' method. It is, in truth, the way in which *all* knowledge comes to us in life: and until our great English philosopher made that discovery, the world was pretty well steeped in learned guess-work and ignorance.

To proceed then. Let us suppose that an industrious Tradesman who has saved a little money, has in the course of some morning walk set his heart upon a bit of land, lying near his city: and suppose the owner to be quite willing to sell it. The price is asked; named; and finally agreed to: the intending purchaser writes a cheque for the amount, and hands it to the seller, takes his Receipt for the money, and——

Here the writer is interrupted by 'shouts of laughter' from the one common throat of almost all the 'Conveyancing' Lawyers in England—*almost* all, observe, *not* all! not the best, not the highest,—not Lord CAIRNS, not Lord WESTBURY, not the LORD CHANCELLOR himself. No! they will not laugh! for they and each of them have bent their noble strength to try to make it so, or nearly

so. But if they—the ‘upper Ten’—*do not* laugh, be sure the lower ‘Thousand’ will, with all their hearts, at the very idea, the bare *idea* of an acre of Land being bought and sold in this way! changing owners like a Hack in the stable, or a Hunter in the field, or a brace of Pointers over the crisp turnips.

But *why not?* The Hunter may be worth his hundred and fifty guineas, yet the buyer is content to pay his money and ride, or have him led, away, without asking troublesome questions. ‘Where did you get him?’ ‘Did you steal him?’ ‘Whom did you buy him from?’ ‘How long have you had him?’ ‘Is there any debt unpaid upon him?’ and so on. Yet surely all these suspicions *might* apply to a horse, which may be here to-day and fifty miles away to-morrow. Why do buyers and sellers settle these matters for themselves, in property liable to every risk of personation and false ownership; yet when a bit of land is in question, which of all things on the face of the Earth,—being in fact, a definite portion of that face—is the most obvious and immovable, its ownership recognisable, and matter of record,—all transaction between the principals—the buyer and the seller, is impossible, simply ridiculous—and the whole matter must be relegated to two or more lawyers, and performed in their offices, and represented, not by a well-authenticated *Government Map*, but on sheepskin ‘Deeds,’ upon which must be engrossed the history of that bit of land for sixty or seventy

years back, with all the Family biography, Births, Deaths, and Marriages of the owner or successive owners!

We are 'so to the manner born' that the absurdity has ceased to strike us. But, in order to see its *likeness* as you cannot see *itself*—imagine for a moment all this 'legal coil' having to be gone through every time a valuable horse—or a Pearl Necklace worth a thousand pounds—or a Set of Brilliants worth ten thousand—changes hands, at TATTERSALL'S, let us say, or HUNT and ROSKELL'S! I name these costly things merely to show that intrinsic *value* has nothing to do with the matter. The Horse may have a pedigree reaching up to 'Childers,' or 'Eclipse': the Pearls, or the Diamonds, may have been in "my lady's Family" three hundred years and more, yet they change owners by a few words of bargain, a Cheque, and a Receipt, and the transaction is ended, absolutely and legally complete.

What then is the difference? if neither value, nor length of ownership constitute it. What, I say, is the difference? The boy who sweeps out the Lawyer's office can almost tell it you!—"Because," he answers, "the bit of land is Real-property, and these other things are *only* Personal property!" That is the answer. Each, you see, is 'property:' that is, it *belongs* to somebody: to *him*, and nobody else: both are alike in this: yet there is a difference. The one is his, and he can sell it himself: the other is his too: but he *can't*

sell it himself: somebody else to whom it does *not* belong, must do it for him: not to-day, nor to-morrow, nor this week; perhaps not for some months to come: *perhaps*—not at all! and “this, this is the unkindest cut of all!”—however truly it may be his,—good to hold, and safe to plough and sow and manure, and talk of,—and pay rates and taxes for; yet when he comes to selling—perhaps, *not at all*.

What does this mean? you ask, and well may ask. Well, the answer is a volume. It is a history, “Sir, a whole history!”

To be able to form any idea of it, it is necessary to bear in mind that the time is not so very far back when Land was the only kind of ‘property’ that existed. When there were no Canals, no Railroads (nor any other roads except what a Pack-horse with its load on its back could brush along), no Banks, no National Debt, therefore no ‘Funds,’—no writing, therefore no Bills—of Exchange, or Sale, or Lading; no form in fact in which personal Savings (the only source of ‘property’) could exist—except here and there a secret hoard, of gold or of jewels,—it will easily be understood that Land was the *only* property, the only thing that deserved, or bore, the name. Therefore when a warrior took possession of a country, as Norman WILLIAM did of this, he gave to his captains and followers all he had to give, the LAND; not for their own, but to hold under him in *Feudal tenure*. Except himself there was no such

thing as a land-owner. They were all 'Tenants,' *holding* (the simple meaning of the word) under him as the Lord Paramount, or Suzerain (Sovereign).

That which was not their own of course they could not sell. A Colonel might as well talk of selling his Regiment, as a Tenant in chief (*in capite*) selling his *Fief* (or feudal estate). It descended from father to son—to the eldest of course, as being the first who could *discharge its duties*, in regular succession of 'primogeniture': a line never broken except when "some fair Mischief," inconveniently occurring in the shape of a Daughter, was as matter of course immediately consigned to the first Favourite on the royal list who wanted—a Fief.

Remember—there was no Standing Army: no Navy: no Civil List: no Parliament to 'vote supplies.' The King had to do it all himself: and this network of *subinfeudation* which penetrated the whole body politic, say rather this pyramid, of which the sovereign was the summit, embraced at once his military power, and whole system of government. The Land was the basis on which it all stood, the pivot on which the whole turned. War being the one occupation of life,—the 'natural pursuit' of man,—to follow to the field some war-like lord was the Rent which each vassal paid to his Superior, throughout all the links of the feudal chain.

But there was one class of Society which did

not go to war. The Churchmen of those days (for Lawyers, like other national blessings, were of later birth) were the only scholars as well as the only landlords, in the land-improving sense of the word; and by degrees, invented modes of *leasing*, and then *re-leasing* land, which, gradually superseding the old fashion of *enfeoffment*, furnished one out of several ingenious and evasive modes of passing the actual *ownership* from one to another *in fee*; and (in an evil day,) even of conveying it to one man for the actual benefit, or *use*, of another; and then, this very *use* losing, (as words will do,) its first and simple meaning, became, in its turn, conveyed substantively to one, or more, in *trust* for some one else; the latter thus enjoying what was called the *equitable*, while the former held the *legal* estate.

But here let us take breath for a moment, and survey the jungle we have got into! Lord Suzerain, Tenants in Capite, Fiefs, and Feoffments, Lease and Release, Uses, and Trusts, Legal and Equitable Estates, and Feudal Tenures in general! With such a vocabulary over its head by way of pedigree, will it now be wondered at, that that bit of land, about which those two citizens were so complacently negotiating, changed masters, under their simple Cheque-and-Receipt-book operations, about as effectively as if they had proposed to buy and sell the odd day out of the Week, or one of 'The Twins' out of the zodiac!

To modern eyes the power to Buy, and Sell,

is almost inseparable from the idea of ownership. That freedom and facility of transfer, which has during the past year enabled three and a half *Billions* Sterling to change owners at the London 'Clearing House,' is due solely to the growth of Trade, and Commerce, and Manufactures, those 'Younger Children' of national history, which as they rose to wealth and importance, obtained laws for themselves adapted to the stature and intelligence of the periods in which they attained to corporate existence and maturity. Laws are to a nation very like what Habits are to an individual: it is easier to make a new one, than to alter an old one: and thus we must not be surprised to find the modern Trade interests of society clothing themselves with the legal habiliments of advancement and intelligence, while Land was still struggling in the fetters, say rather the swaddling-clothes of a system, which while studiously retaining the old appellation of *real* property, deprived it of that which is recognised as the best test of all proprietary right,—the power of disposal, or 'alienation.'

There is nobody to hang, or even to blame for this. It is not the fault of the lawyers. They did not make it. It *grew*. The poor old feudal system was a good one in its day; and suited to its day. It kept society together in a sort of chivalrous interdependence, which was better than independent barbarism. The evil is, when a thing has lost its use and meaning, and become obsolete, when the candle has burnt down into the

socket and grown mischievous, that the extinguisher is not put on to prevent its becoming—disagreeable.

“TIME,” said Lord Bacon, “is the greatest of Innovators.” We all believe it: but we fail to realize it, and fear to act upon it. Our Yesterdays are treated as To-days; and we conservatively clutch the empty forms of things whose essence and material part have passed away, along that far-reaching wake that stretches out behind us into the illimitable Past.

But why, you will ask, if this obstructive system exist no longer in the other countries of Europe, once as subject to feudal laws as England, and has never existed at all in the American States, since they ceased to be a Colony—why does it still hold its ground in the United Kingdom of Great Britain and Ireland? Why have the efforts of our Legislature, as in the Act of 1833, which limited Land titles to twenty years, been unavailing? Why was Lord WESTBURY’S Bill of 1864 for the registration of indefeasible titles, unavailing? Why was the proposal—perhaps the best of all,—to cut the Gordian knot by Insurance, [buyers and sellers uniting to insure till the twenty years had run out, and the title run *in*,] unavailing?

If you ask the question of a layman, he will answer, smiling, with the aphorism that “No Craft reforms itself.” And as the Public think they *cannot* do it, and the Conveyancers *will not* do it, landed titles in England and Ireland can only wait patiently for another Deluge, or some terrestrial

cataclysm like those which Sir RODERICK MURCHISON and the Geologists tell of, to give us a fresh start altogether, and put us on a par with Holland, Denmark, Norway, Germany, Switzerland, the Tyrol, Italy, and Belgium, where no doubt some such convulsions must have happened, as *they* have made short work of Feudalism, and converted the conveyancers down to the vulgar doctrine of 'small profits and quick returns.'

But if you are not afraid to ask a Conveyancer himself about it, and he should chance to be one of

"those better brothers
Who think of something else beside the pen,"

he will probably ask you in return (also smiling, "like any christom child") "How on earth are we to enable you to sell land, like horses? how would *you* set about selling a horse whose master had *settled* him in such a posture that his head was in this century, and his tail in the *next*,—or *vice versa*? If you could *sell* him, how would you *deliver* him? *We* have to deal in a kind of ware more far-reaching than the Atlantic Cable, more delicate than the electric brain-thread, the nerve that links on mind to matter! We are your only true spirit-'mediums.' They, poor bungling sciolists, only profess to bring back the dead to life, and evening parties, and round games. But our machinery, *our* dealings are with the *Unborn*! *They* are *our* real clients, those post-natals, 'in Remainder;' for they are always 'coming,' and *they* have got, and

for ever and for ever hold, the *Fee*, while that poor breathing wretch, the 'life in being,' the 'Tenant for life' in *tail*, whom you ignorantly call the *owner*, and address as 'Esquire,' is a being whom we look upon as altogether at the wrong end of the Settlement, for any good, or harm, he can do; and as in our eyes, nobody at all! His life estate—his '*esse*' is daily diminishing, while the Remainder-man's '*posse*' is daily dilating, and enlarging on the view."

You reply that that won't exactly do, for the purpose that the soil was made for, viz., its agricultural use; that it was meant to be cultivated like a garden by *somebody*, not tied up, like a lettuce, for *somebody Else's* future enjoyment, and that the land, if it be 'real property' ought also to have a real *owner* of some sort: that the proprietor ought to have some *Motive*, the Tenant some *Security*, the Labourer some 'place where he may lay his head,' after his hard day's work, and *near* it too: and you say that this long-winded system of entail on an *unborn generation* interferes with *all* of these, and sacrifices the present to a future uncertainty, which the very instant it ceases to *be* future and uncertain, and comes into possession, is chained down in turn to the despised 'life estate,' and from that instant begins to

"lose the name of action."

Well! what can the Conveyancer do to help it? He has only to obey Instructions. 'The family'

asks it, and "the law allows it." You say that it is written SOMEWHERE that "the earth was made for all"—that, *to this day* (and mark that,) it is as responsive to the Spade, as to the Steam Plough, *and more*: and that if a live dog is better than a dead lion, a living NABOTH should be able to buy, and *hold*, his five acres (and without taking SINBAD'S 'old man of the sea' on his back, in the shape of a lawyer) as easily as AHAB to inherit his five thousand. It sounds dreadfully 'radical:' but it is the nature of things that penetrate the soil to be so. Yet how to 'disestablish' this unborn tyrant, and restore English and Irish earth to 'lives *in being*,' as in the United States and other countries? Won't it give birth to a Revolution—*i. e.*, amongst the Unborn, whose 'vested interests' it so cruelly disendows?

But happily, for every poison there is an antidote; and for "this Nettle danger," there is this fact to soothe the sting—that the very moment the unborn rebel comes into life, he drops at once his objectionable character, and comes within our admitted circle of rightful and reasonable entail. Once establish this, 'any number of Lives *in being*, but no craning over into the unborn world!' and you get rid of *one* landed absurdity, one chapter of the 'history' that stifles the free transfer of British and Irish soil. Very terrible advice, no doubt. The only wonder is that such a restriction has not produced earthquakes in the before-named Continental kingdoms, and America!

To those who have confidence in the Science of political economy it must afford matter of interesting thought to mark the occasional force of Circumstance in compelling obedience to laws which argument, however cogent or reiterated, had failed to demonstrate. When the late Sir ROBERT PEEL was still but half a convert to the long resisted doctrine of free trade, the formidable visitation of the Potato Famine in Ireland—foretold, years before, by COBBETT, and by McCULLOCH—precipitated not only the abandonment of the ‘Sliding Scale,’ but the wholesale abolition of the Corn-laws. “The stars in their courses fought against Sisera.” Events which to the great body of general observers come simply as ‘accidents’ are often neither less nor more than the practical self-vindication of Natural Laws, which, however slow, are as certain in their operation—as certain to reach their culminating point, as the overflow of a dam by the silent accumulation of the stream,—or that retributive course, in the Moral laws, of which it has been so sternly sung,

“raro antecedentem scelestum
Deseruit pede Pœna claudo !”

It would be well for mankind, if their rulers believed in this salutary doctrine; better still if they believed in it themselves. But we go contentedly on, violating the maxims of a Science which is, after all, but the ‘horn-book’ of natural law, a sort of grammar of factology “collected and

arranged for the use of students"—a class whose limited demand will hardly pay the publication.

Were it otherwise, would the appeal now made to England on the Irish land-difficulty present the all but insuperable problem that it seems to do? Are we sure that in this question "our withers are unwrung?" Are we ourselves in a position—have we qualified ourselves to undertake—we will not say *the cure*—but even to estimate the complaint, or honestly to look it in the face?

I have already spoken of 'the laws' delay,' and cost, and difficulty, in the Transfer of land, amounting almost to a national scandal, but become inevitable under our complicate system of Entails, Executory devises, and the endless legal refinements interwoven with them. So long as these remain—involving dormant claims under old wills, and deeds, and unextinguished Terms—long Abstracts of title must and will be required, and long delays, and long bills of Costs, must follow. On this point what says the distinguished Economist to whom we are indebted for the best edition of ADAM SMITH's great work. "By preventing the sale of land," says McCULLOCH, "or placing it, as the lawyers say, *extra commercium*, Entails are obviously adverse to the spread of agricultural improvement, and property is hindered from coming into the hands of those who would turn it to the best account."

But Entails are by no means responsible for the whole of the evil; nor is it, as will easily be seen,

their use, but their extravagance, that needs correction. There is another cause, developed into more significance since McCULLOCH wrote, and far more insidious in its operation upon the freedom of the soil; but so entrenched by common error that it almost baffles the fair assault of argument. Nor will I attempt to storm it, until MENENIUS-like I have shown it its own image, not in his immortal vein of allegory, "Once upon a time," but by a simple tale of modern life.

In a certain street, at the extreme West-end of London, there lived, not long ago, a well-known householder, who became notorious for the odd fancy of never allowing his windows to be cleaned. Under the silent influence of the dust, if not 'of ages,' yet of years, which answer the same end in our metropolis, what should have let in light and life to the inmates, became an eyesore even to the passers by. No remonstrance, or ridicule, of friend or relative had any influence on the obstinate man to abate the nuisance. Every form of appeal, before it had well begun, he stopped and smothered with the same retort; of which the burthen was that on the opposite side of the street there stood a house, in which nearly every window-pane had been cracked, by the clumsy vehemence of the cleansing process, constantly repeated. The fact was true; unfortunately; for, no effort of discrimination could induce him to admit, or see, that between the extreme evils, on one hand, of fracturing every pane, and on the other, of allowing

them to become useless *within*, and offensive *without*, there was a very wide interval indeed,—of which, in fact, every other house in the street stood as a witness.

Well—on the other side of the English Channel there lies a country where an imperial democrat made a law, which still remains in force, that no man should be able to make a will of landed estate except in such a proportion as permitted each of his children (male and female) to share equally with himself. If he had only one child, he could make a will of *half*; if two, of *one third*; if three, of one fourth; and so in the other cases. This pernicious law was intended by its shortsighted framer as a preventive of the growth of an aristocracy: what it became was, and is, a preventive of *population*—(and this at the hands of one who said that “the greatest woman in France was she who furnished most sons”—to the Conscription!) But its evil influence does not operate in France alone: for

“like a mildewed ear
Blasting its wholesome brother”

it has had the consequence on this side the Channel, by the well-known ‘generation of contraries,’ of riveting the shackles of a law handed down to us from feudal times, which errs in the opposite extreme, and of arresting its very discussion with the panic cry—‘Heaven defend us from the French *morcellement*!’ ‘Our opposite neighbours’ panes

have been cracked by the impulse of rude hands; let no finger disturb the dust, or let daylight into ours!’

Yet,—this landed exception apart,—in no country of the world has the ‘daylight’ gained, in other respects, a freer admittance. If a foreigner writing of England were describing the mode in which the Law disposes of the effects of an Intestate, he would speak of it as excellent beyond the reach of criticism. “On the death of any person without a will,” he would say, “the law divides his wealth amongst all his children, with a certain proportion to his widow, if living, and to the children of a deceased child, with an impartiality that seems to approach the perfection of justice. But here the scene alters,—let him have inherited or purchased *Land*,—then all is changed! the whole shall go to the eldest male to the exclusion of all the other children.”—Thus there are two separate principles of distribution of Property, diametrically opposed to each other, and that in the most commercial country in the world, where every kind of property is equally convertible under the hammer of the auctioneer, land itself included, so far as the act of sale is concerned.

It is, however, urged, in reply, that this *law* of ‘primogeniture’ comes very rarely into operation; that the devolution of land in this country is governed almost entirely by ‘Settlements,’ and family Deeds of Entail; so that if this exceptional law which feudal habits have drifted down to us

were abolished to-morrow, the *Custom* of landed inheritance by the first-born son would suffer no interference; people would only be more careful to make their Wills, or Settlements,—and landed property would remain unaffected by the change of the law.

‘Why then alter it?’ it is asked. If its operation is so trifling now, and would probably be still rarer afterwards, why alter it? The question is gravely asked, with all the persuasive emphasis with which men *defend* a system which they would never have dreamt of *creating*. As if the proof, or reproof, of the justice of a law were to be measured by the frequency of its operation! Would homicide once a year be more ‘justifiable’ or less *criminal* than once a month? or a law permitting it, less censurable? The question is not of the frequency, or extent of the action of a law, but of its policy and justice. Individuals may deal with their property as they please. There is no more reason why any man should not devise all his land to his eldest son, if he so please, than against his bequeathing all his funded property or railroad and other shares to his youngest daughter; it is simply a question of private will, and preference, and he must be trusted to make what provision he pleases for his widow, and his other children; and if he omit this duty, it is a matter with which the public and the Legislature, in a free country, cannot meddle: all such restraint would be an impolitic interference with the rights of property.

But it is still more important that THE LAW should not speak in *two voices*, nor make capricious exceptions, in this kind of property, or in that, to its own even-handed justice. It must be consistent with itself, and a *Rule of Right*. "No human laws," says the great Judge BLACKSTONE, "are of any validity if contrary to the Law of Nature; and such of them as are valid derive all their force, and all their authority, mediately or immediately, from this original."

The will, or settlement, of a Parent, while ostensibly giving all the landed estate to the eldest son, charges it with (or makes other) provision for the widow, and younger children. The *law*, in the case of land, does nothing of the kind; so that, as was humourously said of it by a high living authority, "when the law of landed Intestacy *does* make a will for a man, it makes one that any man would be ashamed to make for himself." But frequent or unfrequent as its private operation may be, this is a small part of the mischief of the law in question. Its real and public action is only to be seen and judged of in that artificial system of which it is the root, and of which 'Real' and 'Personal,' as terms of distinction applied to different kinds, or rather conditions, of property, is the luxuriant growth. It is hardly possible to convey an idea of the mass of Litigation which has grown up in our Courts of Law and Equity out of these two words, and the conflict of two discordant and irreconcilable systems—the Commercial and the Feudal,

simultaneously operating, to which they have given the key-note, and remain the fundamental cause. The history of the disputes between the 'Heir-at-Law' and the 'Personal representative,' as they are called,—the respective champions of the two conflicting codes,—would, if the recountal were possible, surpass belief.

I have thus briefly endeavoured to point out, as familiarly as the subject will admit, the faulty features of our English land laws, features retained in this country, after almost every other European State, with one well-known exception, has got rid of them. Even while I have been writing, this exception has begun to disappear. Austria, the once backward, but now progressive Austria, has actually set about amending her land laws, after the Prussian—we may almost say the European pattern, and has recognized at last the wisdom and policy of freedom for the land,—freedom of Transfer, freedom from prolonged Entail, freedom from exceptional laws of Intestacy.

The opponents of this freedom in England are of two classes, consisting on the one hand of landowners themselves, and, on the other, of lawyers of the land-agent, and some conveyancing classes. The opposition of the landowners is rather passive than active: it really consists in a backwardness and indisposition to help themselves, arising out of a kind of timorous individuality that shrinks from allowing its own wound to be probed or known. Unfortunately, too, there is such a thing as the

Timidity of Ignorance, a not uncommon complaint, which has the effect of peopling the dark unknown, or the twilight *half known*, with all sorts of spectres, so brain-born and unsubstantial as to elude all fixity for the purpose of examination, or the detective power of argument. One of the commonest of these, in the present instance, is a visionary theory about subdivision of land, and 'peasant proprietors;' which are assumed as being the object of those who ask for Land-Emancipation; and also assumed as being unfavourable to agriculture. Both assumptions are groundless, and untrue; but they are repeated, from print to print, and from mouth to mouth, with a perseverance that makes one often wonder *what interest it is* that sets on foot, and underlies doctrines so gratuitous, and beside the mark; which usually begin with assertions of the evils of small *proprietorships*, and end by illustrations of the evil of small *tenancies*, ignoring, in the mid passage, the very essence of the matter in discussion, and a distinction which embodies *all the difference*. The immense extent to which land is held in *tenancy*, instead of ownership, in all parts of the United Kingdom, is a necessary consequence of the aggregation which is swallowing up the smaller estates, and capitalising the soil at a rate that is startling to witness. But we have no more right to ask the advocate of free Land, "are you then in favour of small properties?" than to say to the supporter of a pure currency, "are you then in favour of small banking accounts, or limited incomes?"

The mischief of artificial laws is not simply, or even primarily, the evil they set up, but the *good they prevent*, by interfering with those Natural Laws whose salutary action they intercept. It ought to be superfluous to say that what is wholesomest for every country, and every part of every country, is that there should be both large wealth and small wealth, and wealth of every intermediate size, without hindrance from the blundering agency of factitious rules and theories. The same is true, absolutely and precisely true, of that wealth which takes the form of land. It *is not* true that small estates are bad things, or that large estates are bad things: but it *is* true that artificial restrictions, and exceptional laws directed to produce either extreme, whether in England, or France, or any other country, *are* bad; and far more mischievous than is commonly supposed. They damage not only the immediate subject-matter of their operation, but disturb the whole relations of society connected with it. And of nothing is this so true as of the land. Volumes might be written upon that fatal phrase, 'Agrarian Law': and each chapter might take for its theme a different *action* on the political and social development of life, as traceable to this original. There is not a class of society unaffected by it, scarcely a destination of life which it does not reach.

Whoever doubts this, or imagines the proposition too sweeping, let him call thoughtfully to mind the fact, that the Earth is, literally, '*the leaf*'

we feed on,—the original source of all Wealth, and of the whole machinery of human action, consequent thereon. Let him ask himself, candidly, whether it is *likely*, that an error in the laws that profess to govern it, should be a trifling matter, a mere mistake, of small moment, or limited action, involving no *consequences* that interpenetrate the body politic in its vital relations: whether, if it be true that there are *inherent laws* belonging to, and in the very structure of created things, presiding over their organisation, [just as each plant, or tree, though growing in the same soil, develops its own special foliage and individual form, in accordance with the law of its being,] whether, if this be true, it is a safe or prudent responsibility, to go dogmatising on, with theories and conceptions taking such childish form of expression as being *in favour of* small estates, or large estates, in land; when the trodden experience of daily life ought sufficiently to demonstrate that the mere tendency of a ‘law’ to produce *either extreme* is, at once, its condemnation.

It is true that the Napoleonic law, in France, compelling subdivision, is impolitic and injurious: it is true that the land-intestacy, and entail laws, and obstructed transfer resulting from them, and intercepting land-commerce in England, are impolitic and injurious. Which is the *worse* extreme, is simply one of those matters of speculative opinion on which men will take this side, and that side, as long as “the sun, and the moon, endureth.” To

some lands, and to some peoples, one system is better adapted,—for instance, where attachment to the soil is little, and capital for vicarious employment on it, large,—where men look solely to annual profit, and would *rather* rent of another, than cultivate, or ornament, their *own*,—there, the ‘*grande culture*’ of territorial Estates *farmed* by large *tenants* is sufficiently indicated. On the other hand, where the land is loved, like an heirloom, for its own sake,—where capitals are small, and adapted to a smaller class of produce, as Poultry and Eggs,* Milk, Butter, Cheese, and other Dairy belongings (not forgetting the omnivorous tribe of pigs), where even the Beehive and the Honeycomb are not gone out of fashion—who can refuse to see the signs of a small-scale cultivation, and the dearer tie, and claims, of ownership, in the soil?

But all this is mere superfluity when treated as matter for opinionative decision, or factitious State action; and is as much beside the mark as it would be to pronounce upon the proportion of Exchequer Bonds that men may choose to hold or buy, or the proper extent of their investments. Never do men “talk wisely, and in the street too!” in a vein of greater oversight of the truth on landed topics than when they proceed to lay down the law for ‘large,’ or ‘small’ holdings, ‘*grande culture*’ or ‘peasant-proprietorship.’ The one true and simple rule is,

* The annual import of foreign eggs for the last three years has averaged above *four hundred millions*.

—Free the Land; *let it alone*; to find its own Natural Equilibrium, of *Ownership*, and *Tenancy*, of *large* holdings, and *small*. Must we have King CANUTE back again, and reverse his chair, and his lesson, in order to explain that the LAND is governed by its own eternal and irrefragable laws, as well as the SEA? and that nothing but the obtuseness of courtier skulls, and the narrowness of sycophant thought, would essay or propose to wield with human hand the Supreme Sceptre—"So far shalt thou go, and no further!"

But, for our other class of objectors,—the Lawyers,—what shall we say to them? Must we invoke the shade of COBDEN, and furbish up and re-adapt the old machinery to an 'Anti-Land-law-League'? and wind up the old chimes to sing out again the weary peal about the folly of Protection? Is it come to this, that the 'Landed Interest' must now be in their turn the 'doctrinaires' and set about explaining that the seventy or eighty millions of British and Irish acres are not going to *run away*, like a half-trained colt, the instant the Lunging-Bit and the Dumb-Jockey are removed? Can it really be necessary to argue that the sum of Land transactions will not be less, nor the quotient likely to come out in fewer figures when activity and freedom are the factors? It is hard, they say, to persuade a man against his own interest: how often has modern experience shown it quite as hard to guide men in the true path of it? But modern experience is a history of legislative

success, beyond all expectation, or even hope: and it is little likely that a class, not behind the highest intelligence of the community, will long be urged, like a column, by the timorous counsels of its Rear, when it has at its Head the knowledge, the will, and the power to confer on British soil the greatest boon it shall ever have received since the time of its first great statutory emancipation in the days of CHARLES II.

In one of his pamphlet letters recently addressed to Mr. CHICHESTER FORTESCUE, Lord RUSSELL in writing of the Irish Land question says, "It will not do to dismiss such questions with the superficial remark that 'the laws are the same in Ireland as in England.'"

At the commencement of this Essay I ventured to make the assertion that 'the English land laws are condemned by every one who has taken the trouble to understand them.'

The two remarks contain an inadvertent but apt and real commentary on each other. If both be true, the 'superficiality' would be something rather different to that intended by Lord RUSSELL, whose remarks upon the Irish land topic (unlike those upon the Church question) are indeed superficial to a degree that, in so experienced a statesman, would seem strange, were it not for the fact—before so often noticed—that of all political subjects there is no one on which so little accuracy of information, or idea, and in their place so much of prejudice—appears to exist. Scarcely a conception

is generally entertained of the fact that the aggregation of land into few hands, in this country—the virtual confiscation of the soil in favour of the very rich—is not a mere passive fact, but that it is a *movement*, going on, as it were under our feet, in powerful and active progress: and that, in the nature of things, it cannot be stationary. *Crescit eundo*. Given these three conditions—1st, a law enabling every owner of a certain article of limited supply to maintain, by Will or Settlement, in his own family descent, all that he is master over, for the lives of the existing generation, and *twenty-one years afterwards*; 2ndly, a law which seizes every atom that escapes, either by intestacy or the accident of broken entail, and throws it back into bondage: and 3rdly, a law-supported system which basing itself on those two premises, forbids Buyer and Seller to complete a contract except through a third party whose interest depends on the amount of obstruction that can be interposed, thus paralyzing commerce in the article by delay and cost equivalent to a law-suit and with most of its characteristics, and pressing *in inverse ratio with the extent* of the transaction,—heaviest upon the smallest;—and what other result *could* there be than that which is exhibited by every evidence we possess?

The actual number of land owners in England has been estimated at different periods down to the present time, from very imperfect data, and with varying results: but one feature in the computation

is uniform and unvarying; the decrease, at each successive period, is the one thing most remarkable. The silence, the insidiousness of the operation, conceal it from the public view. To the mass of the community it is as insensible as the earth's diurnal movement, or the Nutation of the Poles. Freedom of Trade, and a reduced Tariff, instead of exposing and bringing it to notice, actually help to disguise it, by supplementing to any extent from other lands *under other laws*, the deficient produce, both in kind and quantity, of our own:—*deficient*, because it is not pretended, at least by any one who has studied the capacity of the soil, that the large-scale cultivation gives the same *absolute* produce with the small.

What is asserted for it is that the acreable return is greater *relatively with the amount of labour employed*: a doctrine and phraseology borrowed—with cruel misapplication, from Manufactures to the Soil,—which is not a dead machine of human fabric and invention, whose virtue lies in the amount of manual labour it displaces, but a living agent and partner to the hands and brain and motive in league with it:* which, like the Cow's udder, gives more the more urgently it is entreated, but dries off to a scantier yield in proportion as the pressure becomes relaxed, or artificial. Or, indeed, I might amend the simile by contrasting the incomparably more abundant yield which the

* "For thou shalt be in league with the stones of the field."—Job v. 23.

animal affords to the reiterated importunity of her own offspring, as against the dole more rudely withdrawn twice daily by the hard hand of the milkman as he hurries through the Dairy-herd. The Earth was made before man, and "was made for *all*:"—we do not say for 'peasant-proprietors,' nor for Norfolk and Lincolnshire farmers renting their two or three thousand acres,—not for either of these, alone, but for *all* comprised by these two extremes, each liable perhaps, like all extremes, to some objections not applying to their intermediates.

The truth is that the machinery-doctrine of 'most produce by least labour' is simply, as applied to the soil, the doctrine of starvation to the labourer and dispossession to the small proprietor: and instead of belonging to the advance of knowledge and civilisation, is a retrogression towards the time when a 'knight's fee' included a whole Wapentake or Hundred, and a Count was territorial lord over a County. It is this error which underlies the ills of the agricultural Labourer, and in conjunction with our universal system of 'Tenancy,' makes it nobody's interest to find him a cottage that will pay for the building; or, in other words, for which his wages will enable him to pay the rent. The farm-tenant cannot do so: the land is not his to build it on, nor the permanent interest his, to care to sprinkle the land with dwellings that might furnish hands for acres, to those who come after, or even, it may be, for *next year*: for who can tell what change to himself a year may bring forth?

And the Landlord cannot do it: for what, under our system, is his interest? He lets his land for the return that another man's capital and skill can make of it, by any means not forbidden in the 'agreement for a year.' It is the Tenant's business, and natural endeavour, to make the most that he can, and in the shortest time: and if he could cultivate his farm *entirely* by machinery, without employing a single labourer upon it, it would be worth his while even to sacrifice a further subtractional percentage from the acreable yield, to purchase a saving so economical to himself, an occupier in whose view each cottage is a standing threat upon *the Rates*, subject to *the whole* of which he rents his farm.—There is in China a refined method of punishment called 'slow mangling,' by which the culprit is gradually flattened out between two surfaces, upper and nether: the head alone is spared, lest the victim's life should be destroyed before he has had time to appreciate the full process. The Union-Houses of England could shew many an attenuated human frame whose worn-out limbs and decrepit form—the vestige of a life of ill-requited field labour—might present a parallel to this that would hardly bear too close comparison.

Such is the English Land tenure system, as represented by three dramatis personæ—1. A Tenant-for-life under Settlement, whose *landed annuity* (for such it is), after meeting every outgoing of the estate (I will not burthen the text

by an attempt to enumerate them), must be devoted to the education and provision for his younger children, who, taking nothing hereafter, are the first claimants for every spare shilling that can be saved from it by the present Life owner. 2. A yearly Tenant, *farming* the land, for the speediest profit that can be made from it, by the most compendious machinery, with the least outlay in manual labour. 3. A Labourer, of whose interest in the soil, or relation to it, or to either of the before-named parties, it is difficult to find words properly descriptive. Perhaps his truest definition, and the shortest, is by negations. He is *not* his landlord's Servant, and he is *not* his employer's Tenant;—in other words—the man who employs, cannot house, and the man who could house, does not employ him. Dependence has its advantages, and Independence its charms: but his lot is cast in a sphere equidistant from either. The proposals to improve his condition by education are much of the same mind with that of the Bourbon Princess who wondered why the famishing poor in Paris, if they were short of bread, did not use Pastry. Education, which enhances the sensibility to suffering, also, happily, tends to emancipate the sufferer; and an *educated* Farm-labourer is, in nine cases out of ten, a farm-labourer no longer. When we are considering the problem how to *improve the Nest*, you will hardly help us much by merely showing the birds how to fly out of it. The question as to his cottage

accommodation becomes, under such a system, one of those detached problems that fall into the waste-basket of 'pure philanthropy.' Whence he comes, in the morning to his work, or whither he goes, in the evening, when he has done it, provided he *has* done it—what is that to his employer? who has no cottage to give him, nor means of building one: and if nothing to *him*, what is it to the landlord? who has no motive for spending the portions of his younger children in making 'questionable additions to the inheritance of his eldest, by putting up a class of buildings that don't pay.

Such is the system; described in the abstract: not, of course, as it is modified and ameliorated, *in England*, by kind resident landlords, and enterprising Tenants, confident in their holdings under the title of a 'good understanding.' What we have to consider when examining a system, is its *absolute* elements and structure, not the dress it may be made to wear under special and long established circumstances,—a resident proprietary almost partnering their Tenants' interests, a national love of country life, agricultural pursuits, field sports, and 'local self-government.' Taken in conjunction with all this, the system finds plenty of advocates, who think they see in it the ultimatum of 'agricultural prosperity;' men whose view never for one instant has penetrated this outward dress and *filling-up*, to the skeleton within—the bare and forbidding form that presents itself wherever these consoling adjuncts are altogether absent,—as instanced in a

non-resident proprietary, estates of enormous extent—twenty—forty—sixty thousand acres life-owned by a titled absentee, and committed to the vicarious charge of an agent, himself non-resident, and acting for *several such 'properties'* at once,—who, with a salary of £300 a year, occupies the post, and is expected to perform the duties of the absentee Landlord of £50,000 a year income,—in a word, “The Realities of Irish Life.”

In vain you tell its defenders that (with the now diminishing exception of Russia,) there is no other country in the world where such a system prevails. They even find in this a compliment, and tell you that is because other countries don't understand Farming as well as we do. In fact, the world's area should, according to them, be laid out on the pattern of a two-thousand-acre Norfolk farm; and those who don't happen to be either large land-owners or large Tenants must ‘get out of the way.’

“Solitudinem faciunt,—*Fundum* appellant.”

It is not difficult to see that in a prosperous commercial and manufacturing country, where the displaced agricultural population can find employment in the Towns, such a system can go on, and prevail, for a considerable time, without challenge. The crowding and other evils it creates in thousands of narrow streets and alleys, the miserable cellars and garrets, reeking with a population that ought to be scattered over the smiling country districts, are indeed sad to think of; but there

is one sadder thought—that of the vast proportion of the community who have not the means of discovering that the cause of all this is to be found in laws which the prejudice of the richer class defends, because they do not feel the pressure, and the ignorance of the poor endures, because they cannot explain it.

Now, to attempt to deal with the difficulties of the Land question in Ireland, without first ascertaining, by what may be described as a process of self examination, our own fitness for the task, would be a course as certainly destined to practical failure as it would be manifestly fraught with presumption. The *Landed system* (so to call it) of a country affects the mind of the people: what they see they believe is best, because it is present to them, and from the nature of the thing they cannot *compare* it. They see no other. English agriculture is based on the vicarial system of occupation. *Tenancy* is almost universal. In this respect we stand alone in the world: and it holds its ground with us, for the causes shown, as it has never done, nor ever could do, in any other country.

But we must not speak of it as if we had adopted it by deliberate choice, or *should* have done so, had there been an alternative. Such is far from being the case. We have drifted into it by a course of events and circumstances quite beyond our own control; and coming as it has done, we have made the best of it. We have fitted it to the uses of society, and, so to speak, grown

into it, till it works if not unchallenged yet without general challenge from the parties most interested—the Tenants themselves.

Under this system the English Tenant takes his farm without the legal security of a Lease; but he takes it *furnished*, and holds it of a landlord residing near at hand. His relation with his landlord is not so much a commercial contract as a kind of social partnership. He is like a Lodger upon the Family Estate. The farm-house and all the out-buildings, barns, stables, sheds, feeding-houses, yards, everything required for the effective business occupation of the land is found for him, and ready to his hand, and their repair and improvement is a matter of constant attention by the landlord or his agent. All that the tenant contributes is the 'rolling' and live stock, the implements and machinery of production and conversion of the produce. Should his holding come suddenly to an end, either by death or by the operation of a six months' notice, he can move, like a bird of passage, from one landlord-furnished farm to another, leaving behind him only such 'unexhausted improvement' as the soil may contain by virtue of his own better cultivation: and if this be considerable it is thought a hard case.

"The rich Tenant in England," says Mr. Butt, "receives his farm in a high state of tenantable repair, a state produced by the expenditure of the Landlord's capital; the poor tenant in Ireland receives nothing but the unimproved soil. The whole circumstances of the two cases are so essentially different that it is absurd to draw even an analogy between them."

"As a general rule, the whole peasant population of Ireland hold their farms as tenants at will, without the slightest security that they may not at any time be evicted from their holdings. This state of things, it must be remembered, is new. Never in the worst days of the Penal Laws were the occupiers thus at the mercy of the proprietors. The most cruel enactment of that code permitted 'Papists' to hold leases for thirty-one years at a rent of two-thirds the value. Imperfect as was the protection which the tenant formerly received, even that little is now gone."*

"Ireland," says Edmund Burke, in his Tract on the Popery Laws, "is a country wholly unplanted; the farmers have neither dwellings nor good offices, nor are the lands almost anywhere provided with fences and communications. The landlord never takes upon him, as is usual in this kingdom, to supply all those conveniences, and to set down his tenant in what may be called a completely furnished farm. If the tenant will not do it, it is never done."

"Formerly the usual way of letting farms in Ireland was by Leases for life, or thirty-one years, or some longer term,—but at present all that is changed; the farmers now holding under such leases are few indeed, and their number is every year rapidly diminishing. A species of tenancy at will is now being substituted in many—very many—districts, for the tenures of Burke's day. This tenancy is a yearly one, but subject to a number of rules and conditions which render its continuance most precarious, and destroy all sense of security and independence in the tenant."†

"I think it is but fair," says an Englishman,‡ accustomed to English tenures, before a Committee of the House of Commons, "that where everything which is done by the landlord in England, is done *by the tenant* in Ireland, the outgoing tenant should receive the value of the capital which he has laid out; and I attribute almost entirely to the custom of TENANT-RIGHT

* "Land Tenure in Ireland," by Isaac Butt. (1866.)

† Address of Mr. Constantine Molloy, President of the Legal and Historical Society. (November, 1865.)

‡ Mr. Senior, the late Commissioner of Poor Laws.

both the absence of agrarian outrage in THE NORTH as well as a much higher cultivation in that part of the country where the farm buildings belonging to tenants at will are substantially built; and those buildings would not have been erected if the tenant was not quite certain he would get the value upon quitting the property."

Let us see what the effects of this Tenant-right have been in the districts of the North in which it prevails. The following is Mr. Butt's testimony:—

"Every traveller through the counties of Down and Antrim is struck by the appearance of industry and cultivation which every district of the country presents. Small farms appear to be tilled with a skill and a care which we are often told can only be met with where farming operations are carried on on an extensive scale. Neat habitations everywhere bear witness to the comfort of the people, and the aspect of every farm and every farm-house bears the impress of habits of industry and order. * * * And what has Tenant-right done for the landlords? In proportion to the natural fertility of the soil, rents are higher in Down than in Tipperary. The property of the tenant in the soil is not *taken from that of the landlord*; but is a new creation of wealth in the community. And the proprietor has the priceless blessing of living at peace with the population that surrounds him. * * * But far above all these considerations is the tranquillity which would follow security of tenure. If justice cannot be done to the people upon any other terms, the cheapest and best purchase that England ever made would be *to buy up, at their highest price, all proprietary rights* which interfere with the permanent settlement of the people on their own soil. * * * Such a measure would obliterate the traces of the ascendancy of conquest. It would teach the population of Ireland to regard the institutions connected with landed property with a friendly instead of a hostile feeling. It would conciliate them to the law which they now regard as their enemy, because they know it chiefly as enforcing landlords' rights. Take the great body of the people into partnership, with proprietary privileges, and you do more to attach them to the law, and the constitution, than you could effect by all the political or religious concessions you

could make. Other questions engage their feelings or their passions: this Land question touches their very existence and their life. * * This would be only to exercise the power, *which it is admitted the State possesses, of buying up property, when private rights become inconsistent with the public good.* I do not admit that my proposal involves the *necessity* of resorting to this principle. If it did, I have shewn that the principle is satisfied when we take property for public purposes, and secure to its owner its full value by way of yearly rent. But were it necessary to resort to the principle of buying up the absolute interest, I believe *no wise statesman ought to hesitate in devising means to carry out such a purchase.*"

But let me now refer to the testimony of a truly distinguished foreigner, a man of European name and reputation, the late Count Cavour, the regenerator of the Italian Kingdom, whose little work on Ireland has been recently translated.*

"Ireland, and especially Catholic Ireland, is a country exclusively agricultural. The cultivation of the ground is the chief—not to say the only—resource of the population. This is ordinarily a condition eminently favourable to the maintenance of order and of peace: but here it is otherwise. The land, to which the Irish are attached by an insurmountable necessity, belongs almost wholly to a foreign race, which has for them neither sympathy nor affection; with which they are not united by that multitude of moral ties that everywhere else exist between the owner and the cultivator of the soil. As a consequence of the successive confiscations that have taken place during the whole course of the 17th century, Ireland, for a hundred years has been divided into two hostile classes; one which *owns*, the other which cultivates, the soil. Its population is composed of Proprietors, protestant, intolerant, treating with contempt the native race; and of Tenants, catholic, poor, ignorant, animated by an inveterate hatred of the despoilers of their country. *Such a social state has no*

* "Thoughts on Ireland." Translated by W. B. Hodgson, LL.D.

parallel in Europe. Russia is, in this respect, in a more satisfactory condition. The Serf* exercises fewer rights: but, at least there exists between him and the upper classes a number of relations of which there is no trace in Ireland. The same blood flows in his veins, and in those of his master: they worship at the same altars: they speak the same language: their national sympathies and their history are the same. Nothing similar exists in Ireland. The catholic cultivator regards the protestant proprietors as cruel strangers who have robbed him of his goods; as sacrilegious persons who have profaned his holy temples; as enemies still stained with the blood of his forefathers.

"These hostile relations could not fail to disgust the proprietors with their domains as places of Residence. The majority of them caring very little to embellish or improve their estates, think only of drawing from them the most money possible. This raised up a class of grasping men, called 'Middlemen,' who, renting from the non-resident proprietors, divided the land into very small portions, unprovided with any sort of farm buildings, and without spending a farthing upon them, sub-let them to the wretched inhabitants of the country, among whom were often the descendants of the ancient proprietors, dispossessed by war and confiscation. This operation was often repeated; and the same domain passed into several hands, by division and sub-division, before reaching the actual cultivator.

"This organization of agricultural labor is, beyond contradiction, the worst that can exist. It unites to all the evils that can be charged upon the *extreme division of the soil*, the vices of *large properties*: it renders impossible the division of labor, as well as improvements in agriculture; without redeeming its defects by the constant industry which the sense of property inspires." * * *

"The laws which regulate the transmission and the distribution of landed property in Ireland are similar to those in Great Britain. Their chief object is to maintain the possession of it without change in the same families, and to prevent its division. I do not wish to discuss their merit. But, whatever

* Made free, since Cavour wrote.

this may be in a society organised wholly in accordance with this principle, it cannot be denied that in Ireland their sad effect is, to maintain a deplorable state of things. The man who never lives on his estate cannot be bound to it by very strong moral ties. If he found it to his pecuniary advantage to be freed from it, he would not keep it long. If he do not do it now, it is because the law presents obstacles almost insurmountable.

"To remove these, it would suffice to abolish entails, and also the law of primogeniture; to permit the partition of inheritances, and to simplify the processes now required for the transfer of land. By the British people these measures would be regarded as almost revolutionary. But a large party in England already demands such reforms with great persistency. The opinion which I have expressed upon them will astonish, perhaps offend those who imagine that the edifice of the British Constitution has no other supports than aristocratic institutions. The example of the great Reformers during the last twenty years might suffice to convince them of their error. But while I acknowledge the important place which the aristocracy has held in the British Constitution, I utterly reject the claim of the Irish aristocracy to be regarded on a similar footing. What resemblance is there between a nobility which has justly merited its rank at the summit of the British nation, and a class of selfish landowners alien to the land which they own, and hostile to the population which they rule.

"The improvement of the relations between the proprietors and the tenants, between the minority who own and the majority who cultivate, is one of the most difficult problems that a legislator can undertake. These relations are, in Ireland, as bad as they can possibly be; they are, I have already said, the primary cause of the country's distress. No one denies that they need serious reform. During many centuries all the laws have been made in the exclusive interest of the landowners. Those times of injustice we have happily left behind us: effort is now needed to obliterate the traces they have left."

Such were the views of one of the first of European Politicians, an independent judge, a

friend of England and of Ireland, and who brought this testimonial with him to the task of judgment, that he was the saviour and regenerator of his own country. I should apologise to the reader for these numerous extracts, were it not that they explain for themselves, consecutively, the leading features of the question by the consentaneous evidence from so many quarters, as to the Wrong, and as to the Remedy. It only remains to produce one more witness, and to let him speak for himself as to the remedy he proposes,—a proposal which has suffered a degree of obloquy and misrepresentation which has, I will venture to say, seldom been exceeded in the annals of political falsehood. In the Debate on the Irish Question, in the House of Commons, on the 13th March, 1868, Mr. Bright spoke as follows:—

“The Right Hon. Gentleman (Mr. Gladstone) put it in a very short phrase when he described the ills of Ireland as connected with ‘an absentee proprietary and an alien Church.’”

“Well, what are the obvious remedies? What are the remedies for this state of things that have been found sufficient in every other country? Why clearly, if you could do it by any means which do not violate the rights of property, it would be a happy thing to give to a considerable portion of the farmers of Ireland some proprietary rights, and at the same time to remove from that country a sense of injustice.”

“Now, I am as careful as any man can be of doing anything which can infringe on what you think, or what I think, the rights of property. I don’t pretend to believe or to admit that there is anything, if you examine the words strictly, in what is called the ‘absolute property in land.’ You may toss a sixpence into the sea if you like, but there are things with regard to the land which you must not and ought not and dare not do.

But I don't want to argue this at all upon that ground. I am, myself, of opinion that there is no class in any country more interested in a strict adherence to the principles of political economy carried out by benevolent and just men than the humblest and poorest classes. I think that they have as much interest in it as the rich, and the House has never known me, as long as I have been here, and so long as I sit here will, I trust, never know me, to propose or advocate anything which shall interfere with what I believe to be, and what I would hold to be if I were a landowner, the just rights of property in the land. But then I don't think, as some people seem to do, that the land is really intended to be only in the hands of the rich. I hold that to be a great mistake. I am not speaking of very poor men, nor do I think that a very poor man ought to possess land; but it cannot be a crime or an evil that any man of moderate means, any farmer, should, if he could, become the possessor of land or of his farm."

"There is no country in the world in which there are only landlords and tenants, *without great manufacturing interests to absorb the population*, in which the degradation of the cultivating tenant is not absolutely assured."

"I have always contended that the landowners of Ireland in their treatment of this question have greatly mistaken not only the interests of the population, but their own. I was told the other day by more than one Irish member of this House, eminently calculated to give a good opinion upon it, that the whole of Ireland might be bought for twenty years' purchase. You know that the land of England is worth thirty years' purchase, and a great deal of it much more, and it is, I believe, because of circumstances which legislation might to a great degree remove that the land of Ireland is worth so much less at this moment than is the land of England."

"Now, coming back to that question of the buying of farms, I put it to the House whether, if it be right to lend to landlords for improvements, to lend to tenants for improvements on the farms of their landlords, to lend to those who propose to carry on public works, and to those who have to pay for the ravages of the cattle plague—if it be right for Parliament to lend money for all these things, I ask whether it might not be right to lend money to a certain extent in order that, in cases where it might

be highly advantageous to landlords, and where they would be willing to consent, a portion of the tenant farmers of Ireland should be established as the proprietors of their own farms? Now, bear in mind that *I have never spoken about 'peasant proprietors.'* I do not care whether they are peasant proprietors or what name you give to them. I am in favour of more *proprietors*, and some will be small and some will be large. But it will be quite proper for Parliament, if it thought fit, to do nothing for this transfer from the landlord who is willing to sell to the tenant who is willing to buy, in cases where there is less than a certain fixed quantity of acres. What I believe is this,—that you could establish from among the tenantry of Ireland a class of proprietors who would stand between the present great holders of land and those who are actually landless, and would give steadiness, loyalty, and peace to the whole population of the island."

"Let the House not imagine that I am proposing to take anybody's land by compulsion. I am proposing to buy in cases where men are willing to sell, and to transfer only in cases where men are willing and able to buy. There would be many thousands of such cases in a few years. Every Irish proprietor opposite must know that among the tenants of Ireland at this moment there is a considerable amount of saved money which is not invested in farms. That saved money would all go to carry out transactions of this nature; extraordinary efforts would be made by thousands of tenants to become possessed of their farms by investing their savings and by borrowing from their friends; and there would be an energetic, enterprising cultivation of the soil such as has never yet been seen in Ireland."

"I come, then, to this, that I would negotiate with land-owners who are willing to sell, and with tenants who are willing to buy, and I would in future make the land the great savings-bank of the tenantry of Ireland. If you like—I have no objection—you might limit the point to which you would go down in this transfer of the farms. But I would do nothing in the whole transaction which was not perfectly acquiesced in by both landlord and tenant, and I would pay to every landlord every shilling he could fairly demand in the market for the estate which he proposed to sell."

"Well, I hope every gentleman opposite will acquit me now of any desire for 'confiscation.' We will not have any other misunderstanding upon that point; and I venture to say to the noble Lord the Chief Secretary that he would have a number of transactions which would be within compass and management compared with those which he would have under this bill if it worked at all, and that he would do a hundred times more good in acting upon the feelings and sentiments of the holders of land in Ireland."

"On that point I shall simply add this, that I, of course, feel that I stand at a disadvantage in making, in a house where landowners are so powerful and so numerous, a proposition of this nature; but I have, at all events, shown them that I mean them no harm, that what I propose is not contrary to the principles of political economy, and that if Government is at liberty to lend money for all the purposes to which I have referred, Government must be equally at liberty to lend money for this greater purpose. And I venture to express my opinion, without the smallest hesitation or doubt, that if this thing were done, to the extent of creating some few scores of thousands of farmer proprietors in Ireland, you would find that their influence would be altogether loyal, that it would extend around them throughout the whole country, and that while you were adding to the security of the Government you would awaken industry in Ireland from its slumber, that you would create an amount of wealth previously unknown, and with that wealth, of course, contentment and tranquillity in its train."

Such was the proposal of Mr. Bright for the regeneration of the Irish Land system, viz., the purchase by the State of some of the larger properties,—territories, I ought to call them,—at a premium price, from the present absentee proprietors, who may be willing to sell, with the view of enabling the occupying farmers to buy them.

It may be interesting to see what is the impression produced upon the mind of one of the most

active and patriotic of the landlords of Ireland, by this proposal, which has been the source of such extraordinary alarm. In an early debate of the House of Lords during the past session, Lord Dufferin said—

“Somehow it happened of late, knowing the great influence which Mr. Bright exercised over the minds of his fellow countrymen, that he had very carefully noted whatever observations on that subject might from time to time have emanated from that gentleman. The first occasion on which Mr. Bright entered at any length upon the Irish question was when he came over to Dublin, and unfolded a very important scheme for the regeneration of Ireland. That scheme had been very much misrepresented by the public Press. Mr. Bright had simply said that with a view of establishing a class of farmer proprietors he was prepared to support a measure in Parliament for the purchasing of such properties as might belong to absentee proprietors and others at 10 per cent. above their marketable value. He confessed as an Irishman that the proposition was very liberal, and in all probability he would be prepared to a certain degree to take a part in it. The next occasion on which Mr. Bright had alluded to this complicated question of Irish land tenure was in the House of Commons last year. Having had the happiness to be present upon that occasion, he remembered that the expression Mr. Bright used made a great impression on him, because he had stated, as nearly as he could recollect, that he neither had nor was he prepared to advocate any measure whatever for the settlement of the Irish land question which would interfere with the legitimate rights of property. That announcement was received by the Conservatives with derisive cheers, upon which Mr. Bright turned round and said, ‘And my interpretation of the rights of property is identical with yours.’ This declaration secured from all sides of the House one of the most hearty cheers he had ever the pleasure of listening to. The third occasion on which Mr. Bright had addressed himself to this question was in his speech at Limerick, in which he had been reported as saying that no matter what legislation might occur with regard to the Irish land question that legislation ought to

be free from the slightest taint of suspicion of any interference with the legitimate rights of the landlords of Ireland. The noble marquis, who expressed a fear of Mr. Bright's orthodox views upon this subject, and other noble lords, might rest satisfied that nothing detrimental to the rights of property was likely to be entertained by Mr. Bright. (Hear, hear.)"

In the debate on the second reading of the Irish Church Bill the Bishop of Lichfield (late Bishop of New Zealand) spoke as follows:—

"The real difficulty and danger in Ireland is the land. Why do not the Government go boldly to the question, on the sound and solid system of assisting the intelligent farmers to acquire portions of the land in fee simple? I believe very many of them desire that; and, in what I think was a very sensible letter, Mr. Bright proposed a plan for accomplishing it. The right hon. gentleman goes on to say that he doubts whether this measure could be carried out in the then Parliament, but that when the voice of the people should have been heard in the new Parliament, he believed it could be the case. Now, my lords, either the voice of the people is not expressed by the present Parliament, or else, according to Mr. Bright, the land scheme could be carried by it. And, indeed, I myself do not see why that should not be the case. In New Zealand, Englishmen, Scotchmen, and Irishmen live together upon the best terms; the qualities of each particular class become blended with each other, to the improvement of all. No dissension as to tenant right can arise, because every tenant has the right of purchasing the land he holds at a fixed price. Under these circumstances, the tenants, instead of being lazy and drunken, strain every nerve in order to save the money which will enable them to become the proprietors of the land they occupy. In this way it happens that the most irregular people of the Irish race become steady and industrious people, acquiring property, and losing all their wandering habits, until it becomes almost impossible to distinguish between the comparative value of the character of the Irish and Scotch elements. Of their loyalty to the Crown I can speak from my own observation, for the only

regiment that is employed in keeping order in New Zealand is Her Majesty's Royal Irish. (Cheers.)"

And now let me turn to the spectacle presented by a country in which this process has been already accomplished. The following passage is from the recent and well known work of a traveller in the United States.*

"The aspect of the country between Philadelphia and Baltimore took me very much by surprise, as I suppose it would any one whose previous travels had been confined to Europe.

"I had imagined that old and densely peopled countries, like England and France, must necessarily present to the eye of the traveller an appearance of their being more closely inhabited than a new country like America. But the very reverse of this is the case, and most strikingly so. All the way from Philadelphia to Baltimore I found the country sown with houses. This arises from the fact that every 100 or 150 acres belong to a separate proprietor (large estates being unknown) who has his house upon his small farm, which he cultivates with his own hands and the assistance of his family.

"As far as the eye can range over the country you see these white farm-houses: and you may now see them all the way from New York to Omaha on the Missouri, 500 miles beyond Chicago, and 1,500 from New York.

"The traveller in the United States generally derives his idea of the wealth of the people from what he sees in towns. The rapidity of their growth, the amount of business done in them, the dimensions of their shops, the goodly appearance of the houses of their merchants, justify him in supposing that the Americans are a very wealthy people.

"But all this wealth of the towns is in fact only a measure of the wealth of the country. *The towns become wealthy and flourishing in proportion to the wealth of the country.* These tens of myriads, then, of farm-houses, each of which is evidently

* 'Last Winter in the United States,' by F. B. Zineke.

the home of a well-to-do family, and of which one is never out of sight in the settled districts of the North, are the truest and most interesting indications of the nature and of the amount of the riches of the United States."

Were it necessary, in order to exhibit the advantages of proprietary over tenant occupation, I might crowd my pages with extracts from the works of some of the most intelligent English writers, such as those of Addison,^a Forsyth,^b Radcliff,^c Sadler,^d Laing,^e Kay,^f Thornton,^g Caird,^h and, amongst foreigners, those of Sismondi,ⁱ Chateaufvieux,^k the Abbé Mann,^l Baron Poederlé,^m Lavergne,ⁿ Passy,^o Laveleye,^p and many others, all pointing to the same conclusion, as evidenced throughout the best cultivated districts of Europe. But the well known remark of our own travelled and accomplished writer, Arthur Young, sums up the whole question in his one aphorism, which (with some allowance for characteristic strength of language) contains within it the fundamental principle and key note of the

^a 'Travels in Italy.' ^b 'Remarks on Italy.'

^c 'Report on the Agriculture of Flanders.'

^d 'Ireland, its Evils and their Remedies,' 1829.

^e 'Observations on the People of Europe,' 1850.

^f 'Social Condition of People of England and Europe,' 1850.

^g 'Plea for Peasant Proprietors.'

^h 'English Agriculture in 1850-1.' ⁱ 'History of Europe.'

^k 'Description of the Rural Economy of Italy.'

^l 'Husbandry of the Netherlands.'

^m 'Communications to the Board of Agriculture, &c.'

ⁿ 'Economie Rurale d'Angleterre.'

^o 'Systemes de Culture, &c.'

^p 'Economie Rurale de la Belgique.'

whole matter. "Give a man the secure possession of a bleak rock, he will turn it into a garden; give him a short lease of a garden, he will return it to you a desert. The *magic of property* turns sand to gold." There exists throughout the world but one seeming exception to this rule, and it is that afforded by the tenant farming of England, with its resident landlords, and well furnished and superintended farms, its *extraordinary commercial and manufacturing outlet for the displaced population of the land*, and, last not least, the apparent acquiescence of the agricultural class in the tenant system under the peculiar circumstances which here qualify and help to mask it.

Perhaps, indeed, this very condition, more than any other cause, blinds us to the contrast presented by the cruel travesty of our tenant system, without its furniture or any of its redeeming incidents, amongst our unhappy fellow subjects in the sister kingdom. There we have a whole country, millions of acres, owned by absentee lords, whose face or presence the wretched cultivators of the soil have never seen or known.

I marvel as I read the list which lies before me of a score of noble English names of owners of estates in Ireland varying from twenty thousand to a hundred thousand acres,—many of these very estates granted on the express *condition of residence*,—and reflect how little that condition, even for a part of the year, seems ever to be thought of. Let us only conceive for a moment the evil

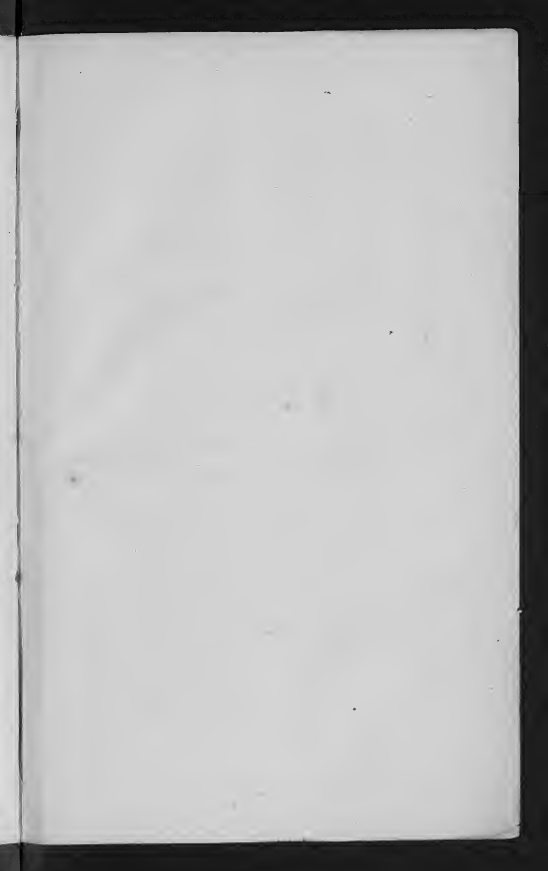
reversed, and the English counties in which many of them reside,—imagine, I say, a single English county so circumstanced. Trifling instances of the kind here and there occur, in the cases of Hospital and of Church lands, just enough to suggest an imaginary taste of such proprietorship. It is but imaginary. A desert surrounded by ‘gentlemen’s seats,’ an English desert is a very exceptional and tolerable affair, bearing no comparison to the world wide waste, where all around is desolate alike; where the social ties and influence that unite Wealth and Poverty in the sacred bond of neighbourhood and sympathy, are altogether wanting; where no socially educating example is ever seen; where, in a word, the blessings of Dependence and of Independence seem alike denied. Our colonies have one and all been set free from the maze of technicalities in which our own land laws are involved. The United States of America have long ago freed themselves. One of our greatest lawyers (Lord St. Leonard’s) has expressed his opinion that “no ‘young state’ ought to be entangled in the complications of our law of real property.” If so, why should we not ourselves make an effort to be rid of them, and, making a virtue of necessity, begin the curative process in that sister island where the want of it is sorest, and where that clinging attachment to the soil which, under the system we have vainly tried so long, has constituted our chief trouble and perplexity, may, in future years be found to be, under a wiser

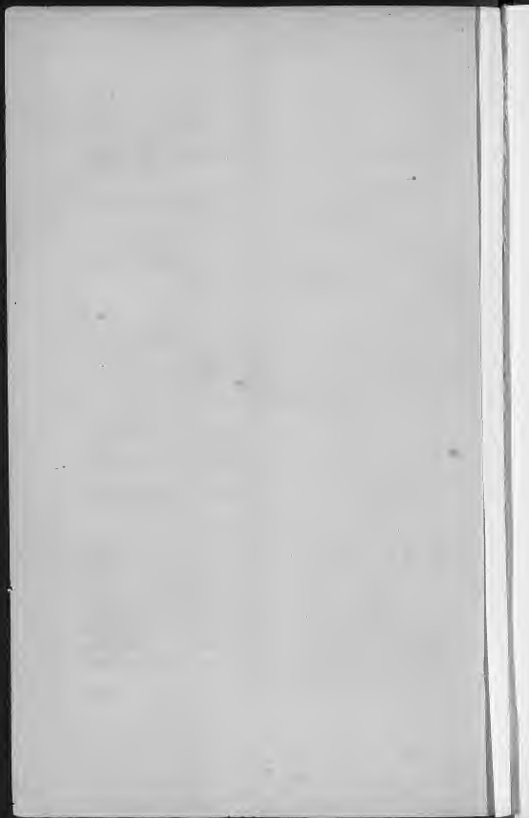
system, pregnant with the seeds of those virtues,—order, industry, and respect for law,—which, under happier auspices, it has brought forth in every other soil.

A great statesman who has passed from us—not the less great in that he never bore office in *this* country—uttered in one of the last—if not the last—of his speeches, the following words,* with which I shall conclude these pages:—

“ At home we have still to apply to land and to labour that freedom which has worked such marvels in the case of capital and of commerce. . . . If I were twenty-five or thirty years old, instead of twice that number, I would take Adam Smith in my hand, and I would have a league for free trade in Land, just as we had a league for free trade in corn. There is just the same authority in Adam Smith for one as for the other; and if the matter were only properly taken up, as a step in political economy, I believe success would attend the effort: and I say this, if you can apply free trade to land and to labour too, the man who does that will have done for the English poor more than we have been able to do by the application of free trade to Commerce.”

* Mr. Cobden's speech at Rochdale, November 23, 1864.







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